

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.2206 OF 2004

IN

SUIT NO.2229 OF 2004

...

P.N. Anani ...Plaintiff

v/s.

Vishni Rajusth & ors. ...Defendants

...

Mr.R. D'souza i/b Rita Abraham for the Plaintiff.

Ms. Sipahimalani for Defendants.

...

CORAM: D.K.DESHMUKH, J.

DATED: 16TH JUNE, 2005

P.C.:

1. This Notice of Motion is taken out by the Plaintiff. The suit of the Plaintiff is filed under Section 6 of the Specific Relief Act. The property is residential flat. According to the Plaintiff, he was dispossessed from the flat on 7th July, 2004. But the learned Counsel appearing for the Plaintiff clearly states that because all the documents remained in the flat when he was dispossessed, he has not been able to place before the Court the documentary evidence which will show that he was in possession of the flat on 7th July, 2004. It further appears that the original owner of the flat had nominated in the society the Defendant No.1 as the successor and according to the Defendant No.1 the share certificate of the flat is in her name.

2. Taking overall view of the matter and also considering the relationship between the parties, it will not be appropriate to appoint the Receiver on the flat. In my opinion, interest of justice would be served by granting the Notice of Motion in terms of prayer clause (b). Hence, the Notice of Motion is granted in terms of prayer clause (b). Notice of Motion disposed of.

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